



Minor Source Operating Permit Renewal Review Time Limit

LSA Document #07-202

Overview

This rule will extend the current 90 day time limit for review and action on a minor source operating permit (MSOP) renewal to 120 days.

Citations Affected

Amends 326 IAC 2-6.1-7.

Affected Persons

This rule will affect any source operating under a MSOP that applies for a renewal. Notification of this rule has been sent to all affected parties identified during the course of this rulemaking.

Reasons for the Rule

This rule will provide the additional time needed to act on MSOP renewals.

Economic Impact of the Rule

No economic impact is anticipated from this rule. Though applicants will need to submit renewal applications 30 days sooner than under the existing rule, another rulemaking due to become effective in early 2008 will allow a MSOP permit renewal term to be up to 10 years, reducing the frequency of renewal applications.

Benefits of the Rule

This rule will allow IDEM permit staff to provide a quality permit renewal to the applicant.

Description of the Rulemaking Project

The permitting rules at 326 IAC 2 include time limits for determinations made by IDEM on permit applications. The rules give IDEM a certain number of days to make a final decision on each type of permit application. IDEM has found that these time limits do not provide

sufficient time for appropriate review and action on renewals to Minor Source Operating Permits (MSOPs).

Applicants for the renewal of a MSOP must submit the renewal application at least 90 days prior to the expiration of the existing permit in accordance with 326 IAC 2-6.1-7. Indiana Code 13-15-4-1(b) requires IDEM to issue renewal permits before the expiration date of the existing permit if a timely and sufficient application for renewal has been made. Therefore, once an application to renew a MSOP is received, IDEM has only 90 days to: complete its review of the application; prepare the draft permit; allow the source time to review the draft permit and suggest changes; put it on public notice; review comments, questions, and suggested changes; and issue the final permit. IDEM permitting staff have found this to be insufficient time to complete these activities, therefore, IDEM is proposing to extend the time to act on these applications to 120 days.

Extending the time in which IDEM makes a permit decision is not expected to significantly impact an affected MSOP source, however, renewal applications would have to be submitted 30 days sooner than under the current rules. A MSOP source that submits a timely renewal application is allowed to continue operating until IDEM makes a final decision on the renewal application.

IDEM is proposing to increase the time limit for making determinations on MSOP renewals from 90 days to 120 days in 326 IAC 2-6.1-7.

Another rulemaking recently completed, LSA

#06-487, extended the MSOP permit renewal term to up to 10 years. That rule will be effective early in 2008.

Scheduled Hearings

First Public Hearing: December 5, 2007, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Second Public Hearing: March 5, 2008, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as appropriate.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal rules.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment

period, a notice of first meeting/hearing, and the draft rule. The Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Legislative Services.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Christine Pedersen, Rule Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).